

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

10 **IN RE OPTICAL DISK DRIVE**
11 **ANTITRUST LITIGATION**

12

13 [ALL ACTIONS]
14

CASE NO. 3:10-md-2143 (RS)

[**PROPOSED**] ORDER RE DISCOVERY
MATTERS (February 28, 2013 Discovery
Status Conference)

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16 On February 28, 2013 , this Court held a hearing on the status of the following outstanding
17 discovery matters, which are described in the parties' Joint Discovery Conference Statement (Dkt.
18 No. 767): (1) schedule for Defendants' production of custodial documents for agreed-upon search
19 terms; (2) schedule for completion of negotiations over search terms; (3) schedule for Defendants'
20 production of custodial documents for disputed search terms; (4) Panasonic's opposition to using
21 Plaintiffs' proposed translations of search terms in Japanese; (5) depositions of class
22 representatives; (6) depositions of J.C. Lim of PLDS and Eugene Yang of HLDS; (7) Defendants'
23 responses to Plaintiffs' questions concerning transactional data; (8) Defendants' narrative
24 responses to Plaintiffs' Rule 30(b)(6) topics; and (9) Direct Purchaser Plaintiffs' production of
25 documents. This Order memorializes the rulings issued on each of these discovery matters during
26 the discovery hearing and, where appropriate, the agreements of the parties with respect to matters
27 over which they were directed to meet and confer.

28

1 **1. Schedule for Defendants' Production of Custodial Documents for
2 Agreed-Upon Search Terms**

3 Defendants are ordered to complete their productions of custodial documents for the top
4 ten identified custodians for all agreed-upon search terms by March 15, 2013. Any Defendant
5 may seek an extension of this deadline from Plaintiffs, as necessitated by individual technical
6 issues. If the parties are unable to resolve a dispute concerning a request for an extension of the
7 deadline, they shall promptly submit the dispute to the Court in a joint letter.

8 **2. Schedule for Completion of Negotiations Over Search Terms**

9 The parties are ordered to complete their negotiations over disputed search terms by March
10 8, 2013. Parties that are unable to resolve their disputes by that deadline shall appear before the
11 Court on March 8, 2013 at 9:00 a.m. to resolve their disputes in the jury room.

12 **3. Schedule for Defendants' Production of Custodial Documents for
13 Disputed Search Terms**

14 Defendants are ordered to produce custodial documents for the top ten identified
15 custodians for all originally disputed search terms on a rolling basis. Defendants shall complete
16 all such productions by March 31, 2013. Any Defendant may seek an extension of this deadline
17 from Plaintiffs, as necessitated by individual technical issues. If the parties are unable to resolve a
18 dispute concerning a request for an extension of the deadline, they shall promptly submit the
19 dispute to the Court in a joint letter.

20 **4. Panasonic's Opposition to Using Plaintiffs' Proposed Translations of
21 Search Terms in Japanese**

22 Plaintiffs and Panasonic are ordered to resolve their dispute concerning the use of
23 Plaintiffs' proposed translations of search terms in Japanese by February 28, 2013.

24 **5. Depositions of Class Representatives**

25 Defendants are ordered by March 4, 2013 to identify all class representative depositions
26 (both by name and proposed date and location) which they intend to notice prior to Plaintiffs'
27 deadline for filing their class certification motions. By March 11, 2013, Plaintiffs shall then
28 confirm the proposed deposition date or provide an alternative date, which absent extenuating
 circumstances, shall be no more than two weeks after the originally noticed deposition date.

1 Defendants shall take the depositions of no more than one-half of the total representatives of the
2 litigation classes in each of the operative complaints before April 29, 2013.

6. Depositions of J.C. Lim of PLDS and Eugene Yang of HLDS

4 The deposition of J.C. Lim shall take place in San Francisco, California on June 5, 2013
5 and June 6, 2013. The deposition of Eugene Yang shall take place on consecutive days until
6 complete at any time between May 28, 2013 and June 23, 2013, in San Francisco, California,
7 provided that Mr. Yang is able to obtain a visa to travel to the United States during that time
8 period, or in Seoul, Korea if Mr. Yang is unable to obtain a visa. To the extent that Mr. Yang is
9 able to travel to the United States, his deposition shall commence on May 30, 2013. These dates
10 may be modified for good cause or by agreement of the parties. The Court understands that the
11 parties are presently negotiating a deposition protocol. The Court is inclined to allow additional
12 time beyond that provided in Fed. R. Civ. P. 30(d)(1) to allow all parties to examine the witnesses.

7. Defendants' Responses to Plaintiffs' Questions Concerning Transactional Data

The parties were ordered to meet and confer on February 28, 2013 over the date by which
15 Defendants shall provide answers to Plaintiffs' technical questions about the format and content of
16 the transactional data Defendants produced. The parties subsequently agreed that Defendants shall
17 provide those answers by March 15, 2013.

8. Defendants' Narrative Responses to Plaintiffs' Rule 30(b)(6) Topics

The parties were ordered to meet and confer on February 28, 2013 about the date by which
20 Defendants shall provide substantive, supplemental narrative responses to Plaintiffs' Rule 30(b)(6)
21 topics, or to complete the meet and confer concerning the same. The parties subsequently agreed
22 that Defendants shall provide those supplemental narrative responses or complete the meet and
23 confer by March 22, 2013. Plaintiffs have agreed on an individual basis to allow certain
24 Defendants to provide supplemental narrative responses or complete the meet and confer by
25 March 29, 2013. The parties may agree to an extension of these deadlines on an individual
26 Defendant basis.

9. Direct Purchaser Plaintiffs' Production of Documents

The parties were ordered to meet and confer on February 28, 2013 about the date by which Direct Purchaser Plaintiffs shall complete their production of documents. The parties subsequently agreed that Direct Purchaser Plaintiffs shall complete their productions for all class representatives in the Second Consolidated Class Action Complaint no later than March 15, 2013. This deadline is hereby adopted. The Court is not prepared to rule on whether discovery of the Direct Purchaser Plaintiffs' downstream data is permitted. The parties may submit that issue for ruling by joint letter brief.

The Court will hold a further discovery conference on April 4, 2013 at 3:30 p.m. The parties are ordered to submit an updated discovery conference statement on April 2, 2013.

April 1, 2013

Submitted by:

Dated March 28, 2013

/s/ Aaron M. Sheanin
AARON M. SHEANIN

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1 **ATTESTATION OF CONCURRENCE IN THE FILING**

2 Pursuant to Civil Local Rule No. 5-1(i)(3), I declare that concurrence has been obtained
3 from each of the above signatories to file this document with the Court.

4 _____
5 */s/ Aaron M. Sheanin*
6 AARON M. SHEANIN
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CERTIFICATE OF SERVICE

I, Aaron M. Sheanin, declare that I am over the age of eighteen (18) and not a party to the entitled action. I am of counsel to the law firm of Pearson, Simon & Warshaw, LLP, and my office is located at 44 Montgomery Street, Suite 2450, San Francisco, California 94104. On March 28, 2013, I caused to be filed the following:

[PROPOSED] ORDER RE DISCOVERY MATTERS

8 with the Clerk of the Court using the Official Court Electronic Document Filing System which
9 served copies on all interested parties registered for electronic filing.

10 I declare under penalty of perjury that the foregoing is true and correct.

/s/ Aaron M. Sheanin
AARON M. SHEANIN

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